

## HB0248S02 compared with HB0248S01

~~text~~ shows text that was in HB0248S01 but was deleted in HB0248S02.

text shows text that was not in HB0248S01 but was inserted into HB0248S02.

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Representative **Melissa G. Ballard** proposes the following substitute bill:

### INMATE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor:** Melissa G. Ballard

**Senate Sponsor:** Derrin R. Owens

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#### LONG TITLE

##### General Description:

This bill concerns inmates.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ directs the Higher Education and Corrections Council to facilitate postsecondary education for inmates housed in county jails;
- ▶ directs the Utah Board of Higher Education to assign student success advisors to correctional facilities;
- ▶ requires an institution of higher education to consider an inmate a state resident for tuition purposes;
- ▶ requires the Department of Corrections (department) to:

## HB0248S02 compared with HB0248S01

- create a reentry division that focuses on the successful reentry of inmates into the community;
  - coordinate with the Board of Pardons and Parole (board) regarding inmate records and ensure that inmate records are complete and, when applicable, shared with the board;
  - report on the department's inmate program implementation progress;
  - publish a notice informing an individual depositing money into an inmate's account that a process exists for the individual to review the inmate's financial records;
  - provide certain assistance to an inmate participating in a postsecondary certificate or degree program;
  - use an inmate's board hearing when determining the timing of an inmate's programs;
  - create an incentive program to encourage an inmate to complete the inmate's programs by the inmate's board hearing;
  - ensure that an inmate may continue participating in programs under certain circumstances;
  - under certain circumstances, start an inmate in at least two of the inmate's programs as soon as the inmate's case action plan is created;
  - allow an inmate to participate in more than one program at a time throughout the inmate's time within the correctional facility under certain circumstances;
  - prioritize placement of inmates in county correctional facilities that meet specified requirements regarding inmate programs;
  - periodically confer with an inmate to determine whether the inmate is on track to complete the inmate's programs by the inmate's board hearing;
  - include in an inmate's record the reason why certain program requirements were not met, if the department is unable to meet specified program requirements;  
and
  - provide an annual report on the department's public website concerning inmate program data;
- ▶ requires the board to use certain factors when setting an inmate's board hearing; and

## HB0248S02 compared with HB0248S01

- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

[53B-1-402](#), as last amended by Laws of Utah 2023, Chapter 254

[53B-8-102](#), as last amended by Laws of Utah 2023, Chapters 44, 50

[53B-35-101](#), as enacted by Laws of Utah 2022, Chapter 147

[53B-35-202](#), as enacted by Laws of Utah 2022, Chapter 147

[64-13-6](#), as last amended by Laws of Utah 2023, Chapter 177

[64-13-23](#), as last amended by Laws of Utah 2021, Chapter 260

[64-13-42](#), as last amended by Laws of Utah 2018, Chapter 415

[64-13-48](#), as enacted by Laws of Utah 2022, Chapter 144

[77-27-7](#), as last amended by Laws of Utah 2022, Chapter 430

#### ENACTS:

[53B-35-301](#), Utah Code Annotated 1953

[64-13-50](#), Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

[Section 1. Section 53B-1-402 is amended to read:](#)

**53B-1-402. Establishment of board -- Powers, duties, and authority -- Reports.**

(1) (a) There is established the Utah Board of Higher Education, which:

(i) is the governing board for the institutions of higher education;

(ii) controls, oversees, and regulates the Utah system of higher education in a manner consistent with the purpose of this title and the specific powers and responsibilities granted to the board; and

(b) (i) The University of Utah shall provide administrative support for the board.

(ii) Notwithstanding Subsection (1)(b)(i), the board shall maintain the board's independence, including in relation to the powers and responsibilities granted to the board.

## HB0248S02 compared with HB0248S01

(2) The board shall:

(a) establish and promote a state-level vision and goals for higher education that emphasize data-driven retrospective and prospective system priorities, including:

(i) quality;

(ii) affordability;

(iii) access and equity;

(iv) completion;

(v) workforce alignment and preparation for high-quality jobs; and

(vi) economic growth;

(b) establish system policies and practices that advance the vision and goals;

(c) establish metrics to demonstrate and monitor:

(i) performance related to the goals; and

(ii) performance on measures of operational efficiency;

(d) collect and analyze data including economic data, demographic data, and data related to the metrics;

(e) govern data quality and collection across institutions;

(f) establish, approve, and oversee each institution's mission and role in accordance with Section 53B-16-101;

(g) assess an institution's performance in accomplishing the institution's mission and role;

(h) participate in the establishment and review of programs of instruction in accordance with Section 53B-16-102;

(i) perform the following duties related to an institution of higher education president, including:

(i) appointing an institution of higher education president in accordance with Section 53B-2-102;

(ii) through the commissioner and the board's executive committee:

(A) providing support and guidance to an institution of higher education president; and

(B) evaluating an institution of higher education president based on institution performance and progress toward systemwide priorities;

(iii) setting the terms of employment for an institution of higher education president,

## HB0248S02 compared with HB0248S01

including performance-based compensation, through an employment contract or another method of establishing employment; and

(iv) establishing, through a public process, a statewide succession plan to develop potential institution presidents from within the system;

(j) create and implement a strategic finance plan for higher education, including by:

(i) establishing comprehensive budget and finance priorities for academic education and technical education;

(ii) allocating statewide resources to institutions;

(iii) setting tuition for each institution;

(iv) administering state financial aid programs;

(v) administering performance funding in accordance with Chapter 7, Part 7, Performance Funding; and

(vi) developing a strategic capital facility plan and prioritization process in accordance with Chapter 22, Part 2, Capital Developments, and Sections 53B-2a-117 and 53B-2a-118;

(k) create and annually report to the Higher Education Appropriations Subcommittee on a seamless articulated education system for Utah students that responds to changing demographics and workforce, including by:

(i) providing for statewide prior learning assessment, in accordance with Section 53B-16-110;

(ii) establishing and maintaining clear pathways for articulation and transfer, in accordance with Section 53B-16-105;

(iii) establishing degree program requirement guidelines, including credit hour limits;

(iv) aligning general education requirements across degree-granting institutions;

(v) coordinating and incentivizing collaboration and partnerships between institutions in delivering programs;

(vi) coordinating distance delivery of programs;

(vii) coordinating work-based learning; and

(viii) emphasizing the system priorities and metrics described in Subsections (2)(a) and (c);

(l) coordinate with the public education system:

(i) regarding public education programs that provide postsecondary credit or

## HB0248S02 compared with HB0248S01

certificates; and

(ii) to ensure that an institution of higher education providing technical education serves secondary students in the public education system;

(m) delegate to an institution board of trustees certain duties related to institution governance including:

(i) guidance and support for the institution president;

(ii) effective administration;

(iii) the institution's responsibility for contributing to progress toward achieving systemwide goals; and

(iv) other responsibilities determined by the board;

(n) delegate to an institution of higher education president management of the institution of higher education;

(o) consult with an institution of higher education board of trustees or institution of higher education president before acting on matters pertaining to the institution of higher education;

(p) maximize efficiency throughout the Utah system of higher education by identifying and establishing shared administrative services, beginning with:

(i) commercialization;

(ii) services for compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(iii) information technology services; and

(iv) human resources, payroll, and benefits administration;

(q) develop strategies for providing higher education, including career and technical education, in rural areas;

(r) manage and facilitate a process for initiating, prioritizing, and implementing education reform initiatives, beginning with common applications and direct admissions;

(s) provide ongoing quality review of programs ~~{ }~~; ~~and~~;

(t) before each annual legislative general session, provide to the Higher Education Appropriations Subcommittee a prioritization of all projects and proposals for which the board or an institution of higher education seeks an appropriation ~~[-]; and~~

(u) coordinate with the Department of Corrections to establish educational programs

## HB0248S02 compared with HB0248S01

### for inmates as described in Section 64-13-6.

(3) The board shall submit an annual report of the board's activities and performance against the board's goals and metrics to:

- (a) the Education Interim Committee;
- (b) the Higher Education Appropriations Subcommittee;
- (c) the governor; and
- (d) each institution of higher education.

(4) The board shall prepare and submit an annual report detailing the board's progress and recommendations on workforce related issues, including career and technical education, to the governor and to the ~~Legislature's~~ Education Interim Committee by October 31 of each year, including information detailing:

(a) how institutions of higher education are meeting the career and technical education needs of secondary students;

(b) how the system emphasized high demand, high wage, and high skill jobs in business and industry;

(c) performance outcomes, including:

- (i) entered employment;
- (ii) job retention; and
- (iii) earnings;

(d) an analysis of workforce needs and efforts to meet workforce needs; and

(e) student tuition and fees.

(5) The board may modify the name of an institution of higher education to reflect the role and general course of study of the institution.

(6) The board may not take action relating to merging a technical college with another institution of higher education without legislative approval.

(7) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(8) The board shall ensure that any training or certification that an employee of the higher education system is required to complete under this title or by board rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

## HB0248S02 compared with HB0248S01

(9) The board shall adopt a policy requiring institutions to provide at least three work days of paid bereavement leave for an employee:

(a) following the end of the employee's pregnancy by way of miscarriage or stillbirth;

or

(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(i) the employee is the individual's spouse or partner;

(ii) (A) the employee is the individual's former spouse or partner; and

(B) the employee would have been a biological parent of a child born as a result of the pregnancy;

(iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section 78B-6-103, of a child born as a result of the pregnancy; or

(iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

Section 2. Section 53B-8-102 is amended to read:

### **53B-8-102. Definitions -- Resident student status -- Exceptions.**

(1) As used in this section:

(a) "Eligible person" means an individual who is entitled to post-secondary educational benefits under Title 38 U.S.C., Veterans' Benefits.

(b) "Immediate family member" means an individual's spouse or dependent child.

(c) "Inmate" means the same as that term is defined in Section 64-13-1.

(c) (d) "Military service member" means an individual who:

(i) is serving on active duty in the United States Armed Forces within the state of Utah;

(ii) is a member of a reserve component of the United States Armed Forces assigned in

Utah;

(iii) is a member of the Utah National Guard; or

(iv) maintains domicile in Utah, as described in Subsection (9)(a), but is assigned outside of Utah pursuant to federal permanent change of station orders.

(d) (e) "Military veteran" has the same meaning as veteran in Section 68-3-12.5.

## HB0248S02 compared with HB0248S01

~~(e)~~ (f) "Parent" means a student's biological or adoptive parent.

(2) The meaning of "resident student" is determined by reference to the general law on the subject of domicile, except as provided in this section.

(3) (a) Institutions within the state system of higher education may grant resident student status to any student who has come to Utah and established residency for the purpose of attending an institution of higher education, and who, prior to registration as a resident student:

(i) has maintained continuous Utah residency status for one full year;

(ii) has signed a written declaration that the student has relinquished residency in any other state; and

(iii) has submitted objective evidence that the student has taken overt steps to establish permanent residency in Utah and that the student does not maintain a residence elsewhere.

(b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

(i) a Utah high school transcript issued in the past year confirming attendance at a Utah high school in the past 12 months;

(ii) a Utah voter registration dated a reasonable period prior to application;

(iii) a Utah driver license or identification card with an original date of issue or a renewal date several months prior to application;

(iv) a Utah vehicle registration dated a reasonable period prior to application;

(v) evidence of employment in Utah for a reasonable period prior to application;

(vi) proof of payment of Utah resident income taxes for the previous year;

(vii) a rental agreement showing the student's name and Utah address for at least 12 months prior to application; and

(viii) utility bills showing the student's name and Utah address for at least 12 months prior to application.

(c) A student who is claimed as a dependent on the tax returns of a person who is not a resident of Utah is not eligible to apply for resident student status.

(4) Except as provided in Subsection (8), an institution within the state system of higher education may establish stricter criteria for determining resident student status.

(5) If an institution does not have a minimum credit-hour requirement, that institution shall honor the decision of another institution within the state system of higher education to grant a student resident student status, unless:

## HB0248S02 compared with HB0248S01

- (a) the student obtained resident student status under false pretenses; or
- (b) the facts existing at the time of the granting of resident student status have changed.
- (6) Within the limits established in ~~[Title 53B, Chapter 8, Tuition Waiver and Scholarships]~~ Chapter 8, Tuition Waiver and Scholarships, each institution within the state

system of higher education may, regardless of its policy on obtaining resident student status, waive nonresident tuition either in whole or in part, but not other fees.

(7) In addition to the waivers of nonresident tuition under Subsection (6), each institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to the maximum number allowed by the appropriate athletic conference as recommended by the president of each institution.

(8) Notwithstanding Subsection (3), an institution within the state system of higher education shall grant resident student status for tuition purposes to:

(a) a military service member, if the military service member provides:

(i) the military service member's current United States military identification card; and

(ii) (A) a statement from the military service member's current commander, or equivalent, stating that the military service member is assigned in Utah; or

(B) evidence that the military service member is domiciled in Utah, as described in Subsection (9)(a);

(b) a military service member's immediate family member, if the military service member's immediate family member provides:

(i) (A) the military service member's current United States military identification card;

or

(B) the immediate family member's current United States military identification card;

and

(ii) (A) a statement from the military service member's current commander, or equivalent, stating that the military service member is assigned in Utah; or

(B) evidence that the military service member is domiciled in Utah, as described in Subsection (9)(a);

(c) a military veteran, regardless of whether the military veteran served in Utah, if the military veteran provides:

(i) evidence of an honorable or general discharge;

## HB0248S02 compared with HB0248S01

(ii) a signed written declaration that the military veteran has relinquished residency in any other state and does not maintain a residence elsewhere;

(iii) objective evidence that the military veteran has demonstrated an intent to establish residency in Utah, which may include any one of the following:

(A) a Utah voter registration card;

(B) a Utah driver license or identification card;

(C) a Utah vehicle registration;

(D) evidence of employment in Utah;

(E) a rental agreement showing the military veteran's name and Utah address; or

(F) utility bills showing the military veteran's name and Utah address;

(d) a military veteran's immediate family member, regardless of whether the military veteran served in Utah, if the military veteran's immediate family member provides:

(i) evidence of the military veteran's honorable or general discharge;

(ii) a signed written declaration that the military veteran's immediate family member has relinquished residency in any other state and does not maintain a residence elsewhere; and

(iii) objective evidence that the military veteran's immediate family member has demonstrated an intent to establish residency in Utah, which may include [any] one of the items described in Subsection (8)(c)(iii); [or]

(e) an eligible person who provides:

(i) evidence of eligibility under Title 38 U.S.C., Veterans' Benefits;

(ii) a signed written declaration that the eligible person will use the G.I. Bill benefits;

and

(iii) objective evidence that the eligible person has demonstrated an intent to establish residency in Utah, which may include [any] one of the items described in Subsection (8)(c)(iii)[.];

(f) an alien who provides:

(i) evidence that the alien is a special immigrant visa recipient;

(ii) evidence that the alien has been granted refugee status, humanitarian parole, temporary protected status, or asylum; or

(iii) evidence that the alien has submitted in good faith an application for refugee status, humanitarian parole, temporary protected status, or asylum under United States

## HB0248S02 compared with HB0248S01

immigration law~~[-]; or~~

(g) an inmate;

(i) during the time the inmate is enrolled in the course; and

(ii) for one year after the day on which the inmate is released from a correctional facility as defined in Section 64-13-1.

(9) (a) The evidence described in Subsection (8)(a)(ii)(B) or (8)(b)(ii)(B) includes:

(i) a current Utah voter registration card;

(ii) a valid Utah driver license or identification card;

(iii) a current Utah vehicle registration;

(iv) a copy of a Utah income tax return, in the military service member's or military service member's spouse's name, filed as a resident in accordance with Section 59-10-502; or

(v) proof that the military service member or military service member's spouse owns a home in Utah, including a property tax notice for property owned in Utah.

(b) Aliens who are present in the United States on visitor, student, or other visas not listed in Subsection (8)(f) or (9)(c), which authorize only temporary presence in this country, do not have the capacity to intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

(c) Aliens who have been granted or have applied for permanent resident status in the United States are classified for purposes of resident student status according to the same criteria applicable to citizens.

(10) Any American Indian who is enrolled on the tribal rolls of a tribe whose reservation or trust lands lie partly or wholly within Utah or whose border is at any point contiguous with the border of Utah, and any American Indian who is a member of a federally recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled to resident student status.

(11) A Job Corps student is entitled to resident student status if the student:

(a) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and

(b) submits verification that the student is a current Job Corps student.

(12) A person is entitled to resident student status and may immediately apply for resident student status if the person:

## HB0248S02 compared with HB0248S01

(a) marries a Utah resident eligible to be a resident student under this section; and

(b) establishes his or her domicile in Utah as demonstrated by objective evidence as provided in Subsection (3).

(13) Notwithstanding Subsection (3)(c), a dependent student who has at least one parent who has been domiciled in Utah for at least 12 months prior to the student's application is entitled to resident student status.

(14) (a) A person who has established domicile in Utah for full-time permanent employment may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on an employer requested transfer to Utah, recruitment by a Utah employer, or a comparable work-related move for full-time permanent employment in Utah.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when Utah employment was first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years old; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(15) (a) A person who is in residence in Utah to participate in a United States Olympic athlete training program, at a facility in Utah, approved by the governing body for the athlete's Olympic sport, shall be entitled to resident status for tuition purposes.

(b) Upon the termination of the athlete's participation in the training program, the athlete shall be subject to the same residency standards applicable to other persons under this section.

## HB0248S02 compared with HB0248S01

(c) Time spent domiciled in Utah during the Olympic athlete training program in Utah counts for Utah residency for tuition purposes upon termination of the athlete's participation in a Utah Olympic athlete training program.

(16) (a) A person who has established domicile in Utah for reasons related to divorce, the death of a spouse, or long-term health care responsibilities for an immediate family member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on the long-term health care responsibilities.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

- (i) the person's employment and educational history;
- (ii) the dates when the long-term health care responsibilities in Utah were first considered, offered, and accepted;
- (iii) when the person moved to Utah;
- (iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;
- (v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;
- (vi) evidence that the person is an independent person who is:
  - (A) at least 24 years old; or
  - (B) not claimed as a dependent on someone else's tax returns; and
- (vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(17) The board, after consultation with the institutions, shall make rules not inconsistent with this section:

- (a) concerning the definition of resident and nonresident students;
- (b) establishing procedures for classifying and reclassifying students;
- (c) establishing criteria for determining and judging claims of residency or domicile;
- (d) establishing appeals procedures; and
- (e) other matters related to this section.

(18) A student shall be exempt from paying the nonresident portion of total tuition if

## HB0248S02 compared with HB0248S01

the student:

- (a) is a foreign national legally admitted to the United States;
- (b) attended high school in this state for three or more years; and
- (c) graduated from a high school in this state or received the equivalent of a high

school diploma in this state.

Section 3. Section 53B-35-101 is amended to read:

### **53B-35-101. Definitions.**

As used in this chapter ~~["council"]~~:

(1) "Correctional facility" means the same as that term is defined in Section 64-13-1.

(2) "Council" means the Higher Education and Corrections Council created in Section 53B-35-201.

(3) "Department" means the Department of Corrections created in Section 64-13-2.

(4) "Inmate" means the same as that term is defined in Section 64-13-1.

(5) "Institution of higher education" means an institution described in Section 53B-1-102.

Section 4. Section 53B-35-202 is amended to read:

### **53B-35-202. Council duties -- Reporting.**

(1) The council shall:

(a) coordinate, facilitate, and support ~~["the delivery of"]~~ higher education delivered in the state's correctional facilities, including the county jails under contract with the Department of Corrections to house inmates, to prepare incarcerated individuals for integration and productive employment upon release;

(b) explore and provide recommendations to the board and the ~~["Utah"]~~ Department of Corrections for the efficient and effective delivery of higher education programs to incarcerated individuals, including:

(i) evidence-based practices and technologies;

(ii) methods of maximizing and facilitating incarcerated individuals' access to educational programs;

(iii) methods of supporting and facilitating timely completion of courses, certificates, and degrees;

(iv) methods of emphasizing educational programs that:

## HB0248S02 compared with HB0248S01

- (A) align with current and future workforce demands of the state;
- (B) lead to occupations that are accessible to released incarcerated individuals;
- (C) provide sustainable wages following release; and
- (D) maximize accessibility and timely completion during incarceration;
- (v) use of cross-institutional application of coursework toward certificates and degrees;
- (vi) use of coursework that encourages personal and civic development; and
- (vii) methods of leveraging innovative course delivery, including technology resources;
- (c) explore methods and make recommendations for the collection and analysis of critical data regarding:
  - (i) enrollment and completion of postsecondary education courses, certificate programs, credentials, and degree programs;
  - (ii) federal and state student aid awarded to incarcerated individuals;
  - (iii) costs of postsecondary education in prison, including any recommendations for continued improvement; and
  - (iv) outcomes of formerly incarcerated individuals who participated in postsecondary programming during incarceration if the individual is under the supervision of the Department of Corrections, including recidivism, employment, and post-release postsecondary education engagement; and
- (d) recommend requests for legislative appropriations to the board to support the purposes and objectives of the council.

(2) The council shall annually report regarding the council's plans and programs, the number of enrollees served, and the number of enrollees receiving degrees and certificates to:

- (a) the board;
- (b) before the committee's November interim committee meeting, the Education Interim Committee; and
- (c) at least 30 days before the beginning of the annual legislative session, the Higher Education Appropriations Subcommittee.

Section 5. Section 53B-35-301 is enacted to read:

### Part 3. Student Support

53B-35-301. Higher education student advisors.

(1) An institution of higher education providing education to inmates in a correctional

## HB0248S02 compared with HB0248S01

facility shall provide relevant academic and career advising services that are substantially similar to services provided to a student who is not a confined or incarcerated individual.

(2) Each participating institution of higher education described in Subsection (1) shall report annually to the council regarding the guidance and support provided.

Section ~~{1}~~6. Section 64-13-6 is amended to read:

### **64-13-6. Department duties.**

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide evidence-based and evidence-informed program opportunities for offenders designed to reduce offenders' criminogenic and recidivism risks, including behavioral, cognitive, educational, and career-readiness program opportunities;

(d) ensure that offender participation in all program opportunities described in Subsection (1)(c) is voluntary;

(e) where appropriate, utilize offender volunteers as mentors in the program opportunities described in Subsection (1)(c);

(f) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;

(g) provide the results of ongoing clinical assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

(h) manage programs that take into account the needs and interests of victims, where reasonable;

(i) supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(j) subject to Subsection (2), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

(k) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;

(l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult

## HB0248S02 compared with HB0248S01

Offender Supervision;

(m) establish a case action plan based on appropriate validated risk, needs, and responsivity assessments for each offender as follows:

(i) (A) if an offender is to be supervised in the community, the department shall establish a case action plan for the offender no later than 60 days after the day on which the department's community supervision of the offender begins; and

(B) if the offender is committed to the custody of the department, the department shall establish a case action plan for the offender no later than 90 days after the day on which the offender is committed to the custody of the department;

(ii) each case action plan shall:

(A) integrate an individualized, evidence-based, and evidence-informed treatment and program plan with clearly defined completion requirements;

and

(B) require that a case manager will:

(I) ensure that an assessment of the education level, occupational interests, and aptitudes of the inmate has been completed;

(II) refer the inmate to a higher education student advisor at an institution offering programs consistent with the inmate's interests and aptitudes for advisement on educational preferences and plans;

(III) incorporate the inmate's interests, aptitudes, and student advisement into an education plan consistent with the guidance provided by the Higher Education and Corrections Council created in Section 53B-35-201; and

(IV) refer the inmate to the student advisor at the institution called for in the case action plan for guidance and assistance with the education process;

(iii) the department shall share each newly established case action plan with the sentencing and release authority within 30 days after the day on which the case action plan is established; and

(iv) the department shall share any changes to a case action plan, including any change in an offender's risk assessment, with the sentencing and release authority within 30 days after the day of the change;

(n) ensure that an inmate has reasonable access to legal research;

## HB0248S02 compared with HB0248S01

~~(fn)o~~ ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- (i) under this title;
- (ii) by the department; or
- (iii) by an agency or division within the department; ~~[and]~~

~~(o)~~(p) when reporting on statewide recidivism, include the metrics and requirements described in Section 63M-7-102;

~~(fr)q~~ create a reentry division that focuses on the successful reentry of inmates into the community;

~~(fr)r~~ coordinate with the Board of Pardons and Parole regarding inmate records that are necessary for the Board of Pardons and Parole to make necessary determinations regarding an inmate; and

~~(fr)s~~ ensure that inmate records regarding discipline, programs, and other relevant metrics are:

- (i) complete and updated in a timely manner; and
- (ii) when applicable, shared with the Board of Pardons and Parole in a timely manner.

(2) The department may in the course of supervising probationers and parolees:

(a) respond in accordance with the graduated and evidence-based processes established by the Utah Sentencing Commission under Subsection 63M-7-404(6), to an individual's violation of one or more terms of the probation or parole; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) (a) By following the procedures in Subsection (3)(b), the department may investigate the following occurrences at state correctional facilities:

- (i) criminal conduct of departmental employees;
- (ii) felony crimes resulting in serious bodily injury;
- (iii) death of any person; or
- (iv) aggravated kidnaping.

## HB0248S02 compared with HB0248S01

(b) Before investigating any occurrence specified in Subsection (3)(a), the department shall:

(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has occurred; and

(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection (3)(a).

(4) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.

(5) (a) The executive director of the department, or the executive director's designee if the designee possesses expertise in correctional programming, shall consult at least annually with cognitive and career-readiness staff experts from the Utah system of higher education and the State Board of Education to review the department's evidence-based and evidence-informed treatment and program opportunities.

(b) Beginning in the 2022 interim, the department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding:

(i) the department's implementation of and offender participation in evidence-based and evidence-informed treatment and program opportunities designed to reduce the criminogenic and recidivism risks of offenders over time[-]; and

(ii) the progress of the department's implementation of the inmate program requirements described in Section 64-13-50.

(6) (a) As used in this Subsection (6):

(i) "Accounts receivable" means any amount owed by an offender arising from a criminal judgment that has not been paid.

(ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures, surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims, reimbursement of a reward, and damages that an offender is ordered to pay.

(b) The department shall collect and disburse, with any interest and any other costs assessed under Section 64-13-21, an accounts receivable for an offender during:

(i) the parole period and any extension of that period in accordance with Subsection (6)(c); and

## HB0248S02 compared with HB0248S01

(ii) the probation period for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection 77-18-105(7).

(c) (i) If an offender has an unpaid balance of the offender's accounts receivable at the time that the offender's sentence expires or terminates, the department shall be referred to the sentencing court for the sentencing court to enter a civil judgment of restitution and a civil accounts receivable as described in Section 77-18-114.

(ii) If the board makes an order for restitution within 60 days from the day on which the offender's sentence expires or terminates, the board shall refer the order for restitution to the sentencing court to be entered as a civil judgment of restitution as described in Section 77-18-114.

(d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.

Section 7. Section 64-13-23 is amended to read:

### **64-13-23. Offender's income and finances.**

(1) The department may require each offender, while in the custody of the department or while on probation or parole, to place funds received or earned by the offender from any source into:

- (a) an account administered by the department; or
- (b) a joint account with the department at a federally insured financial institution.

(2) The department may require each offender to maintain a minimum balance in an account under Subsection (1) for the particular offender's use upon:

- (a) discharge from the custody of the department; or
- (b) completion of parole or probation.

(3) If the funds are placed in a joint account at a federally insured financial institution:

- (a) any interest accrues to the benefit of the offender account; and
- (b) the department may require that the signatures of both the offender and a

departmental representative be submitted to the financial institution to withdraw funds from the account.

(4) If the funds are placed in an account administered by the department, the department may by rule designate:

- (a) a certain portion of the offender's funds as interest-bearing savings; and
- (b) a portion of the offender's funds as noninterest-bearing to be used for day-to-day

## HB0248S02 compared with HB0248S01

expenses.

(5) The department may withhold part of the offender's funds in an account under Subsection (1) for expenses of:

(a) supervision or treatment;

(b) restitution, reparation, fines, alimony, support payments, or similar court-ordered payments;

(c) obtaining the offender's DNA specimen, if the offender is required under Section 53-10-404 to provide a specimen;

(d) department-ordered repayment of a fine that is incurred under Section 64-13-33; and

(e) any other debt to the state.

(6) (a) An offender may not be granted free process in civil actions, including petitions for a writ of habeas corpus, if, at any time from the date the cause of action arose through the date the cause of action remains pending, there are any funds in an account under Subsection (1) that have not been withheld or are not subject to withholding under Subsection (4) or (5).

(b) The amount assessed for the filing fee, service of process and other fees and costs shall not exceed the total amount of funds the offender has in excess of the indigence threshold established by the department but not less than \$25 including the withholdings under Subsection (4) or (5) during the identified period of time.

(c) The amounts assessed shall not exceed the regular fees and costs provided by law.

(7) The department may disclose information on offender accounts to the Office of Recovery Services and other appropriate state agencies.

(8) The department shall publish a notice on the department's website, and any website used by an individual depositing funds into an offender's account, that the individual may request from the department a copy of a statement of the offender's financial account in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

Section 8. Section 64-13-42 is amended to read:

**64-13-42. Prison Telephone Surcharge Account -- Funding inmate and offender education and training programs.**

(1) (a) There is created within the General Fund a restricted account known as the Prison Telephone Surcharge Account.

## HB0248S02 compared with HB0248S01

(b) The Prison Telephone Surcharge Account consists of:

(i) ~~beginning July 1, 2006,~~ revenue generated by the state from pay telephone services located at any correctional facility as defined in Section 64-13-1;

(ii) interest on account money;

(iii) (A) money paid by inmates participating in postsecondary education provided by the department; and

(B) money repaid by former inmates who have a written agreement with the department to pay for a specified portion of the tuition costs under the department's deferred tuition payment program;

(iv) money collected by the Office of State Debt Collection for debt described in Subsection (1)(b)(iii); and

(v) money appropriated by the Legislature.

(2) Upon appropriation by the Legislature, money from the Prison Telephone Surcharge Account shall be used by the department for education and training programs for offenders and inmates as defined in Section 64-13-1.

### Section 9. Section 64-13-48 is amended to read:

#### **64-13-48. Educational and career-readiness programs.**

(1) The department shall, in accordance with Subsection 64-13-6(1)(c), ensure that appropriate evidence-based and evidence-informed educational or career-readiness programs are made available to an inmate as soon as practicable after the creation of the inmate's case action plan.

(2) The department shall provide incarcerated women with substantially equivalent educational and career-readiness opportunities as incarcerated men.

(3) Before an inmate begins an educational or career-readiness program, the department shall provide reasonable access to resources necessary for an inmate to apply for grants or other available financial aid that may be available to pay for the inmate's program.

(4) (a) The department shall consider an inmate's current participation in an educational or career-readiness program when the department makes a decision with regard to an inmate's:

(i) transfer to another area or facility; or

(ii) appropriate disciplinary sanction.

## HB0248S02 compared with HB0248S01

(b) When possible, the department shall use best efforts to allow an inmate to continue the inmate's participation in an educational or career-readiness program while the facility is under lockdown, quarantine, or a similar status.

(5) (a) The department shall maintain records on an inmate's educational progress, including completed life skills, certifications, and credit- and non-credit-bearing courses, made while the inmate is incarcerated.

(b) The department shall facilitate the transfer of information related to the inmate's educational process upon the inmate's release, including the inmate's post-release contact information and the records described in Subsection (5)(a), to:

(i) the inmate; or

(ii) an entity that the inmate has authorized to receive the inmate's records or post-release contact information, including an institution:

(A) from which the inmate received educational instruction while the inmate was incarcerated; or

(B) at which the inmate plans to continue the inmate's post-incarceration education.

(6) Beginning May 1, 2023, the department shall provide an annual report to the Higher Education Appropriations Subcommittee regarding educational and career-readiness programs for inmates, which shall include:

(a) the number of inmates who are participating in an educational or career-readiness program, including an accredited postsecondary education program;

(b) the percentage of inmates who are participating in an educational or career-readiness program as compared to the total inmate population;

(c) inmate program completion and graduation data, including the number of completions and graduations in each educational or career-readiness program;

(d) the potential effect of educational or career-readiness programs on recidivism, as determined by a comparison of:

(i) the total number of inmates who return to incarceration after a previous incarceration; and

(ii) the number of inmates who return to incarceration after a previous incarceration who participated in or completed an educational or career-readiness program;

(e) the number of inmates who were transferred to a different facility while currently

## HB0248S02 compared with HB0248S01

participating in an educational or career-readiness program, including the number of inmates who were unable to continue a program after a transfer to a different facility; and

(f) the department's:

(i) recommendation for resources that may increase inmates' access to and participation in an educational or career-readiness program; and

(ii) estimate of how many additional inmates would participate in an educational or career-readiness program if the resources were provided.

(7) The department shall:

(a) ensure that an inmate enrolled in an educational or career-readiness program has access to modern technology determined by the provider of the program as necessary for an inmate to participate in the program; and

(b) assist an inmate in applying for jobs within 30 days before the day on which the inmate is released from the department's custody.

~~[(7)]~~ (8) The department may make rules in accordance with Section 64-13-10 and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this section.

Section ~~{2}~~ 10. Section **64-13-50** is enacted to read:

**64-13-50. Inmate program requirements -- Records -- Reporting.**

(1) As used in this section:

(a) "Board" means the Board of Pardons and Parole.

(b) "Board hearing" means a hearing established under Subsection 77-27-7(1), which is the earliest possible point at which the board may consider an inmate's release from a correctional facility.

(c) (i) "Program" means a part of an inmate's case action plan that is required or optional and includes:

(A) sex offender treatment;

(B) substance use treatment;

(C) educational programs, including literacy programs;

(D) career-readiness programs;

(E) life-skills training; and

(F) transition programs meant to prepare an inmate who is about to leave a correctional

## HB0248S02 compared with HB0248S01

facility in accordance with Section 64-13-10.6.

(ii) "Program" includes online and in-person programs.

(2) On or before January 1, 2026, the department shall:

(a) use an inmate's board hearing when determining the timing of an inmate's programs to ensure that an inmate will have the ability to complete all of the inmate's programs by the inmate's board hearing;

(b) create an incentive plan to encourage an inmate to complete the inmate's programs by the inmate's board hearing;

(c) in accordance with Subsection 64-13-48(4) and Subsection (3), use the department's best efforts to ensure that when an inmate is transferred within a correctional facility or to a different correctional facility, the inmate is able to continue all programs that the inmate has already started and has not yet completed, without requiring the inmate to restart a program from the beginning or wait on a waiting list for the program, unless the program's continuation would be impossible due to the inmate's transfer to a more restrictive setting due to a behavioral or disciplinary violation;

(d) in accordance with Subsection (3), use the department's best efforts to ensure that if an inmate opts out of an optional program, the inmate is able to rejoin the program within six months without being required to restart the program from the beginning or wait on a waiting list;

(e) in accordance with Subsection (3), as soon as an inmate's case action plan is created in accordance with Subsection 64-13-6(1)(m), use the department's best efforts to start the inmate in at least two of the inmate's programs;

(f) in accordance with Subsection (3), use the department's best efforts to allow an inmate to participate in more than one program at a time throughout the inmate's time within the correctional facility, including, if applicable, providing technological methods for an inmate to participate in an online program;

(g) in accordance with Section 64-13e-103, prioritize the placement of inmates within county correctional facilities that:

(i) offer, allow, or facilitate department-specified programs for inmates; and

(ii) collect and provide inmate program completion data to the department; and

(h) periodically confer with an inmate and, if necessary, the board, to determine

## HB0248S02 compared with HB0248S01

whether the inmate is on track to complete all of the inmate's programs by the inmate's board hearing.

(3) If the department is unable to meet a requirement described in Subsection (2)(c), (2)(d), (2)(e), or (2)(f), the department shall:

(a) include in the inmate's records the reason why the requirement was not met; and

(b) ensure the information described in Subsection (3)(a) is made available to the board.

(4) The department shall provide an annual report on the department's public website that states how many inmates:

(a) are currently participating in one or more programs; and

(b) have successfully completed one or more programs during the prior year.

Section ~~33~~11. Section 77-27-7 is amended to read:

**77-27-7. Parole or hearing dates -- Interview -- Hearings -- Report of alienists --**

**Mental competency.**

(1) (a) The Board of Pardons and Parole shall determine within six months after the date of an offender's commitment to the custody of the Department of Corrections, for serving a sentence upon conviction of a felony or class A misdemeanor offense, a date upon which the offender shall be afforded a hearing to establish a date of release or a date for a rehearing, and shall promptly notify the offender of the date.

(b) When determining the hearing date under Subsection (1)(a), the board shall consider:

(i) the type and severity of offenses;

(ii) prior criminal history;

(iii) criminogenic risk factors; and

(iv) evidence-based assessments.

(2) Before reaching a final decision to release any offender under this chapter, the chair shall cause the offender to appear before the board, its panel, or any appointed hearing officer, who shall personally interview the offender to consider the offender's fitness for release and verify as far as possible information furnished from other sources. Any offender may waive a personal appearance before the board. Any offender outside of the state shall, if ordered by the board, submit to a courtesy hearing to be held by the appropriate authority in the jurisdiction in

## HB0248S02 compared with HB0248S01

which the offender is housed in lieu of an appearance before the board. The offender shall be promptly notified in writing of the board's decision.

(3) (a) In the case of an offender convicted of violating or attempting to violate any of the provisions of Section 76-5-301.1, Subsection 76-5-302(2)(b)(vi), Section 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404, 76-5-404.1, 76-5-404.3, or 76-5-405, the chair may appoint one or more alienists who shall examine the offender within six months prior to a hearing at which an original parole date is granted on any offense listed in this Subsection (3).

(b) The alienists shall report in writing the results of the examination to the board prior to the hearing. The report of the appointed alienists shall specifically address the question of the offender's current mental condition and attitudes as they relate to any danger the offender may pose to children or others if the offender is released on parole.

(4) A parolee may petition the board for termination of lifetime parole as provided in Section 76-3-202 in the case of a parolee convicted of a first degree felony violation, or convicted of attempting to violate Section 76-5-301.1, Subsection 76-5-302(2)(b)(vi), Section 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404.1, 76-5-404.3, or 76-5-405, and released on parole before January 1, 2019.

(5) In any case where an offender's mental competency is questioned by the board, the chair may appoint one or more alienists to examine the offender and report in writing to the board, specifically addressing the issue of competency.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules governing:

- (a) the hearing process;
- (b) alienist examination; and
- (c) parolee petitions for termination of parole.

Section ~~4~~12. **Effective date.**

This bill takes effect on May 1, 2024.